

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>ANIBAL MELENDEZ,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 04-1537-SLR
	:	
<b>THOMAS CARROLL,</b>	:	
Warden,	:	
	:	
Respondent.	:	

**MOTION FOR EXTENSION OF TIME**

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, the respondent moves for an extension of time in which to file an answer to the petition. In support thereof, the respondent states the following:

1. The petitioner, Anibal Melendez, has applied for federal habeas relief challenging an April 2002 conviction in the Superior Court by guilty plea, shortly before the start of his capital murder trial, to second degree murder and related offenses. (D.I. 2).

2. The Court in this case granted the respondent's request for an extension of time to file the answer, and thus the answer was due to be filed on or before May 6, 2005. Counsel completed work on the answer in a timely fashion and prepared the document for filing in accordance with the recently enacted electronic filing procedures. Notably, counsel on May 6, 2005 filed the certified copies of state court records as directed by the Court's order. Inadvertently, however, the answer does not appear to have been filed with the Court. Counsel notes that the document was reduced to the "pdf format" required for filing, and counsel assumed that the document had been submitted to the Court. When electronic notice

regarding the answer was not received, however, counsel's review of the docket revealed the answer had not been filed. Upon discovery of the oversight, counsel prepared the answer again for filing with the Court today.

3. Counsel was out of the office during the week of May 9-13, 2005, and thus only became aware of the matter upon return. Undersigned counsel can only posit that the misstep was part of the learning curve associated with the new electronic filing procedures and will continue to make every effort to meet deadlines established by the Court. The undersigned certainly regrets any inconvenience caused to the Court or the petitioner by the timing of the requested extension.

4. This is the respondent's second request for an extension of time in this case. The requested extension will not result in any prejudice to the petitioner.

5. In light of the above, the respondent submits that an extension of time to and including today, May 18, 2005 is reasonable. Respondent submits herewith a proposed order.

/s/ \_\_\_\_\_  
Thomas E. Brown  
Deputy Attorney General  
Department of Justice  
820 N. French Street  
Wilmington, DE 19801  
(302) 577-8500  
Del. Bar ID# 3278  
*ThomasE.Brown@state.de.us*

Date: May 18, 2005

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

<b>ANIBAL MELENDEZ,</b>	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 04-1537-SLR
	:	
<b>THOMAS CARROLL,</b>	:	
Warden,	:	
	:	
Respondent.	:	

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2005,

WHEREAS, respondent having requested an extension of time in which to file an answer to the petition for a writ of habeas corpus, and

WHEREAS, it appearing to the Court that the request is timely and good cause has been shown for the extension,

IT IS HEREBY ORDERED that respondent's answer shall be filed on or before May 18, 2005.

---

United States District Judge

CERTIFICATE

I hereby certify that I have neither sought nor obtained the consent of the petitioner, who is incarcerated and appearing *pro se*, to the subject matter of this motion.

/s/ \_\_\_\_\_  
Thomas E. Brown  
Deputy Attorney General  
Del. Dept. of Justice  
  
Counsel for Respondent

Date: May 18, 2005

**CERTIFICATE OF SERVICE**

The undersigned, being a member of the Bar of this Court, hereby certifies that on May 18, 2005 he caused to be electronically filed a Motion for Extension of Time with the Clerk of the Court using CM/ECF and also caused to be mailed by first class U.S. Mail two copies of the document to the following non-registered participant, the petitioner:

Anibal Melendez (No. 337929)  
Delaware Correctional Center  
1181 Paddock Road  
Smyrna, DE 19977.

/s/ \_\_\_\_\_  
Thomas E. Brown  
Deputy Attorney General  
Del. Dept. of Justice  
  
Counsel for Respondents

Date: May 18, 2005